

§§ 1151.13–1151.15 [Reserved]

Subpart C—Discrimination Prohibited

GENERAL

§ 1151.16 General prohibitions against discrimination.

(a) No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from federal financial assistance.

(b) These regulations do not prohibit the exclusion of nonhandicapped persons or persons with a specific type of handicap from the benefits of a program limited by Federal statute or executive order to handicapped persons or persons with a different type of handicap.

(c) Recipients shall take appropriate steps to insure that no handicapped individual is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination in any program receiving or benefiting from Endowment financial assistance because of the absence of appropriate auxiliary aids for individuals with impaired sensory, manual, or speaking skills.

(d) Recipients shall take appropriate steps to insure that communications with their applicants, employees, and beneficiaries are available to persons with impaired vision and hearing.

(e) Recipients shall administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons.

§ 1151.17 Specific discriminatory actions prohibited.

(a) A recipient, in providing any aid, benefit, service, or program either directly or through contractual, licensing, or other arrangements, shall not, on the basis of handicap:

(1) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, program, or service;

(2) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or

service that is not equal to that afforded others;

(3) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(4) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(5) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipient's program;

(6) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(7) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

(b) Despite the existence of separate or different programs or activities provided in accordance with this part, a recipient may not deny a qualified handicapped person the opportunity to participate in such programs or activities that are not separate or different.

(c) A recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration:

(1) That have the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap;

(2) That have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program with respect to handicapped persons; or

(3) That perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same state.

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(d) A recipient may not, in determining the site or location of a facility, make selections:

(1) That have the effect of excluding handicapped persons from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives or benefits from federal financial assistance; or

(2) That have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to handicapped persons.

(e) As used in this section, the aid, benefit, or service provided under a program or activity receiving or benefiting from federal financial assistance includes any aid, benefit, or service provided in or through a facility that has been constructed, expanded, altered, leased or rented, or otherwise acquired, in whole or in part, with federal financial assistance.

§ 1151.18 Illustrative examples.

(a) The following examples will illustrate the application of the foregoing provisions to some of the activities funded by the National Endowment for the Arts.

(1) A museum exhibition catalogue or small press editions supported by the Endowment may be made usable by the blind and the visually impaired through cassette tapes, records, discs, braille, readers and simultaneous publications;

(2) A theatre performance supported by Federal funds may be made available to deaf and hearing impaired persons through the use of a sign language interpreter or by providing scripts in advance of the performance.

(3) A performing arts organization receiving Federal funds for a specific program offered in an inaccessible facility may arrange to provide a reasonable opportunity for that program to be offered to the public at large in an alternative accessible space; e.g., a theatre offering four different plays a season may offer at least one performance of each play in an alternative accessible space.

(4) Recipients of federal funds should make every effort to assure that they

do not support organizations or individuals that discriminate;

(5) A handicapped person with experience and expertise equal to qualification standards established by a planning or advisory board may not be excluded from participation on the board on the basis of handicap. This does not mean that every planning or advisory board necessarily must include a handicapped person.

(b) Despite the existence of permissible separate or different programs, e.g., periodic performances in alternative accessible spaces, a physically handicapped person who wishes to be, and can be, escorted to a seat, may not be denied such access to an otherwise inaccessible theatre.

(c) State arts agencies are obligated to develop methods of administering federal funds so as to ensure that handicapped persons are not subjected to discrimination on the basis of handicap either by sub-grantees or by the manner in which the funds are distributed.

(d) In the event Endowment funds are utilized to construct, expand, alter, lease or rent a facility, the benefits of the programs and activities provided in or through that facility must be conducted in accordance with these regulations, e.g., a museum receiving a grant to renovate an existing facility must assure that all museum programs and activities conducted in that facility are accessible to handicapped persons.

(e) In carrying out the mandate of section 504 and these implementing regulations recipients should make every effort to administer Endowment assisted programs and activities in a setting in which able-bodied and disabled persons are integrated, e.g., tours made available to the hearing impaired should be open to the public at large and everyone should be permitted to enjoy the benefits of a tactile experience in a museum.

§§ 1151.19–1151.20 [Reserved]

PROGRAM ACCESSIBILITY

§ 1151.21 Discrimination prohibited.

No qualified handicapped person shall, because a recipient's facilities are inaccessible to or unusable by